

At the preliminary hearing, the Administrative Law Judge framed the issue for preliminary hearing purposes as to whether claimant was entitled to further medical treatment in the form of a referral to a pain management clinic and temporary total disability compensation from October 17, 1997. The Administrative Law Judge went on

to find that there was no dispute as to compensability of claimant's injuries. Following the hearing, the Administrative Law Judge granted claimant's request for a referral to a pain management clinic and temporary total disability compensation if claimant was accepted in the pain management program.

Respondent contends the medical evidence it introduced, at the preliminary hearing, proves that the claimant has reached maximum medical improvement and he is not in need of a pain management clinic evaluation. The respondent makes an attempt to frame the issue before the Appeals Board as a jurisdictional issue listed in K.S.A. 1997 Supp. 44-534a(a)(2).

The Appeals Board, however, finds the issue before the Administrative Law Judge and now before the Appeals Board is simply whether claimant is in need of medical treatment in the form of a pain management clinic. The jurisdictional issue of whether the injuries claimant sustained in a car accident on September 16, 1996, arose out of and in the course of his employment with the respondent was neither raised nor argued before the Administrative Law Judge. The Appeals Board finds the Administrative Law Judge is granted the authority pursuant to K.S.A. 1997 Supp. 44-534a(a)(2) to grant or deny a request for medical compensation and temporary total disability compensation pending a full hearing on the claim. The Appeals Board, therefore, concludes it does not have jurisdiction, at this juncture of the proceeding, to review the preliminary hearing Order.

WHEREFORE, the Appeals Board finds the respondent's application for review of the preliminary hearing Order of Administrative Law Judge Julie A. N. Sample dated January 15, 1998, should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of March 1998.

BOARD MEMBER

c: Andrea S. Stubblefield, Blue Springs, MO
Jeffrey E. King, Salina, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director